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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/565,151

01/19/2006

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P1470US

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EXAMINER

CAILLOUET, CHRISTOPHER C

ART UNIT

PAPER NUMBER

4191

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/565,151	<b>Applicant(s)</b> WADA ET AL.	
	<b>Examiner</b> CHRISTOPHER C. CAILLOUET	<b>Art Unit</b> 4191	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3,7 and 9-24 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,7 and 9-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>01/19/2006</u> .  | 6) <input type="checkbox"/> Other: ____.                          |

**Examiner: Caillouet**

**May 9, 2008**

**DISPOSABLE WEARING ARTICLE**

***Claim Rejections - §112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Claim 8 recites the limitation "the first elastic laminated body and the second elastic laminated body" in the second to last line of the claim. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - §102/103***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102(b) that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 3, 7 and 9 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Otsubo et al (US 6827804).

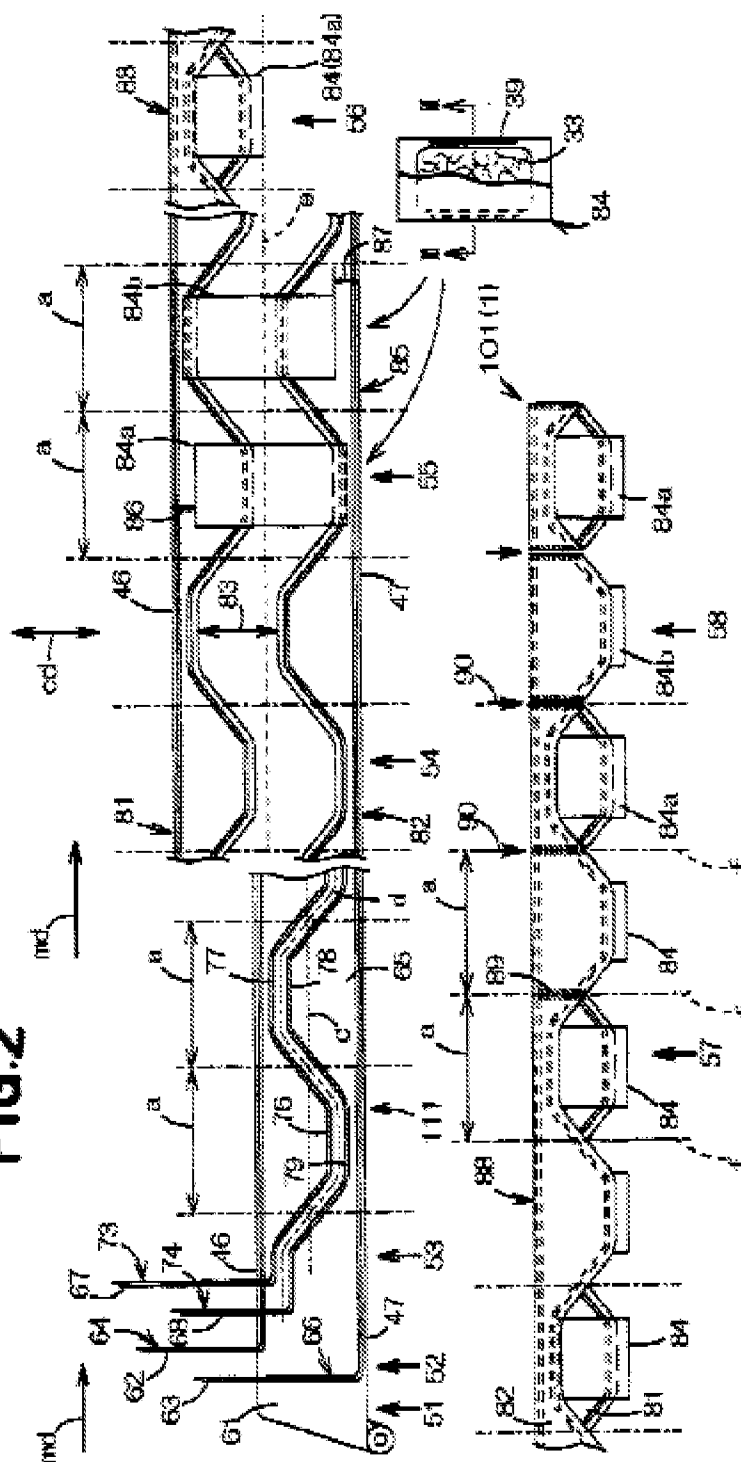
As to claim 1, Otsubo teaches a method of making a disposable diaper (Abstract). As seen in Figure 2 below, Otsubo discloses a method that comprises of a step of cutting a web ('79') in a length direction so that a concave portion ('77') and a convex portion ('78') appear alternately; a step ('55') of attaching a cover sheet with absorber ('84') to bridge between cut first web and second web; a step of widening ('54') the first web and the second web to which the cover sheet/absorber is attached ('55').

Otsubo et al. do not specifically disclose the absorbent structure is attached to the cover sheet. However, it is the position of the examiner that such step is inherent, given that both Otsubo and the present application both use a crotch piece that comprises of a cover sheet and an absorbent member.

Alternatively, it would have been obvious to one of ordinary skill in the art to combine a cover sheet with an absorbent member because one of ordinary skill in the art would recognize that a diaper would not function properly, i.e. it would not serve its purpose of fluid retention, without the cover sheet being attached to the absorbent member.

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FIG. 2



As to claim 3, Otsubo discloses a pad member is attached to the web halves. It is inherent that the pad member is provided with slack because there is no mention that the pad or the elastic members ('39') of the pad are attached in a stretched state to the web halves.

As to claim 7, Otsubo discloses a method wherein elastic members are inserted into a disposable wearing article. As seen in Figure 2, waist/body elastic members ('64', '66') and leg peripheral elastic members ('73' and '74') are attached to the web (column 4, lines 38-50).

As to claim 8, Otsubo discloses a step where composite web is folded upon itself and the first and second web components are sealed (column 5, lines 34-39; Figure 2, '57').

As to claim 9, Otsubo discloses a step wherein leg openings are formed in the disposable wearing article (Figure 2, '56'; Figure 1, '41').

7. Claims 10-14 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Otsubo et al (US 6827804).

As to claim 10, Otsubo teaches a method of making a disposable diaper (Abstract). As seen in Figures 2 and 5, Otsubo discloses a method that comprises of a steps of forming a composite web by laminating elastic members ('64', '66', '73', '74') in between two web materials ('61', '70'); cutting the composite web ('75') in a length direction so that a concave portion ('77') and a convex portion ('78') appear alternately; a step of attaching a cover sheet ('55') to bridge between cut first web and second web;

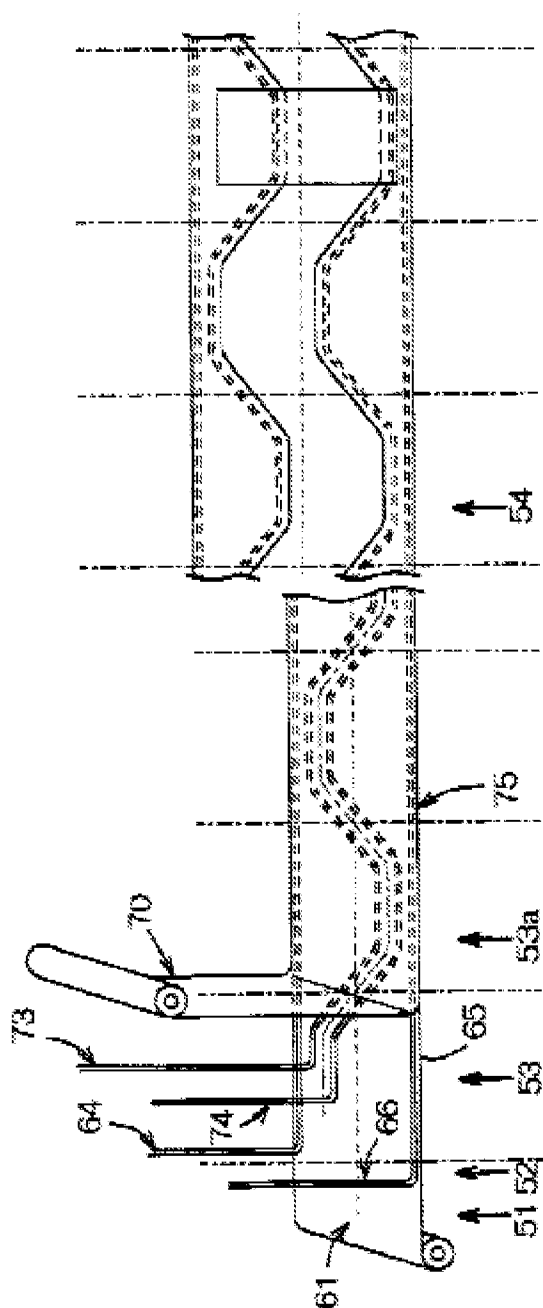
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a step of widening ('54') the first composite web and the second composite web to which the cover sheet/absorber is attached ('55').

Otsubo et al. do not specifically disclose the absorbent structure is attached to the cover sheet. However, it is the position of the examiner that such step is inherent, given that both Otsubo and the present application both use a crotch piece that comprises of a cover sheet and an absorbent member.

Alternatively, it would have been obvious to one of ordinary skill in the art to combine a cover sheet with an absorbent member because one of ordinary skill in the art would recognize that a diaper would not function properly, i.e. it would not serve its purpose of fluid retention, without the cover sheet being attached to the absorbent member.

**FIG.5**



As to claim 11, Otsubo discloses a pad member is attached to the web halves. It is inherent that the pad member is provided with slack because there is no mention that the pad or the elastic members ('39') of the pad are attached in a stretched state to the web halves.



As to claim 12, Otsubo discloses a method wherein elastic members are inserted into a disposable wearing article. As seen in Figure 2, waist/body elastic members ('64', '66') and leg peripheral elastic members ('73' and '74') are attached to the web (column 4, lines 38-50).

As to claim 13, Otsubo discloses a step where composite web is folded upon itself and the first and second web components are sealed (column 5, lines 34-39; Figure 2, '57').

As to claim 14, Otsubo discloses a step wherein leg openings are formed in the disposable wearing article (Figure 2, '56'; Figure 1, '41').

8. Claims 15 and 17-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Otsubo et al (US 6827804).

As to claim 15, Otsubo teaches a method of making a disposable diaper (Abstract). As seen in Figures 2 and 5, Otsubo discloses a method that comprises of a steps of forming a composite web by laminating elastic members ('64', '66', '73', '74') in between two web materials ('61', '70'); cutting the composite web ('75') in a length direction so that a concave portion ('77') and a convex portion ('78') appear alternately; a step of attaching an absorber ('55') to bridge between cut first web and second web; a step of widening ('54') the first composite web and the second composite web to which the absorber is attached ('55'). Otsubo discloses that the elastic members are applied to the web in an extended state (column 4, lines 45-51).

As to claim 17, Otsubo discloses a method wherein elastic members are inserted into a disposable wearing article. As seen in Figure 2, waist/body elastic members ('64', '66') and leg peripheral elastic members ('73' and '74') are attached to the web (column 4, lines 38-50).

As to claim 18, Otsubo discloses a step where composite web is folded upon itself and the first and second web components are sealed (column 5, lines 34-39; Figure 2, '57').

As to claim 19, Otsubo discloses a step wherein leg openings are formed in the disposable wearing article (Figure 2, '56'; Figure 1, '41').

9. Claims 20 and 22-24 rejected under 35 U.S.C. 102(b) as being anticipated by Otsubo et al (US 6827804).

As to claim 20, Otsubo teaches a method of making a disposable diaper (Abstract). As seen in Figures 2 and 5, Otsubo discloses a method that comprises of a steps of forming a composite web by laminating elastic members in an extended state ('64', '66', '73', '74'; column 4, lines 45-51) in between two web materials ('61', '70); cutting the composite web ('75') in a length direction so that a concave portion ('77') and a convex portion ('78') appear alternately; and a step of attaching an absorber ('55') to bridge between cut first web and second web.

As to claim 22, Otsubo discloses a method wherein elastic members are inserted into a disposable wearing article. As seen in Figure 2, waist/body elastic members ('64',

'66') and leg peripheral elastic members ('73' and '74') are attached to the web (column 4, lines 38-50).

As to claim 23, Otsubo discloses a step where composite web is folded upon itself and the first and second web components are sealed (column 5, lines 34-39; Figure 2, '57').

As to claim 24, Otsubo discloses a step wherein leg openings are formed in the disposable wearing article (Figure 2, '56'; Figure 1, '41').

10. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Otsubo et al (US 6827804) as applied to claims 15 and 17-19 above, and further in view of Thorson et al. (US 6979380).

Otsubo does not teach to shift the cut webs so that the concave portions of the respective webs oppose each other. Thorson teaches a method of manufacturing disposable undergarments (abstract). Thorson teaches that a web material is cut along the longitudinal direction thereby making webs that will be the front and rear panel of a diaper, each having a maximum and minimum rise respectively; shifting at least one of said rear and front body panels so that the maximum rises (concave portions) are aligned; and connecting an absorber to the webs, bridging the gap therein (column 15, lines 32-58). Thorson teaches that this method allows for flexibility in manufacturing different size garments (column 1, lines 49-52).

It would have been obvious to one of ordinary skill in the art to incorporate the teachings of Thorson onto the method of Otsubo because Thorson's method allows for flexibility in manufacturing different size garments (column 1, lines 49-52).

11. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Otsubo et al (US 6827804) as applied to claims 20 and 22-24 above, and further in view of Thorson et al. (US 6979380).

Otsubo does not teach to shift the cut webs so that the concave portions of the respective webs oppose each other. Thorson teaches a method of manufacturing disposable undergarments (abstract). Thorson teaches that a web material is cut along the longitudinal direction thereby making webs that will be the front and rear panel of a diaper, each having a maximum and minimum rise respectively; shifting at least one of said rear and front body panels so that the maximum rises (concave portions) are aligned; and connecting an absorber to the webs, bridging the gap therein (column 15, lines 32-58). Thorson teaches that this method allows for flexibility in manufacturing different size garments (column 1, lines 49-52).

It would have been obvious to one of ordinary skill in the art to incorporate the teachings of Thorson onto the method of Otsubo because Thorson's method allows for flexibility in manufacturing different size garments (column 1, lines 49-52).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTOPHER C. CAILLOUET whose telephone number is (571)270-3968. The examiner can normally be reached on Monday - Thursday; 8:30am-5:00pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dah-Wei Yuan can be reached on (571) 272-1295. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher C Caillouet/  
Examiner, Art Unit 4191

/Dah-Wei D. Yuan/  
Supervisory Patent Examiner, Art Unit 4191